

WITHDRAWN

SPECIAL ORDINANCE NO. 12, 2018

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====

Common Address of lots to be rezoned:

2102 and 2118 Chestnut Street, Terre Haute, IN 47807

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Rezoned From: R-1 Single-Family Residential District

Rezoned To: C-6 Strip Business District

Proposed Use: Automobile sales

Name of Owners: Tyler Dix and Wabash Motors, Inc.  
Address of Owners: 2110 Wabash Avenue  
Terre Haute, IN 47807

Phone Number of Owner c/o Richard J. Shagley  
(812) 232-3388

Attorney Representing Owner: Richard J. Shagley

Address of Attorney: Wright, Shagley & Lowery, P.C.  
PO Box 9849, Terre Haute, IN 47808

For Information Contact:  Owner  Attorney

Council Sponsor: Neil Garrison

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

WITHDRAWN

FILED

AUG 21 2018

CITY CLERK

SPECIAL ORDINANCE NO. 12, 2018

An Ordinance Amending Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute Indiana."

SECTION 1. BE IT ORDANED BY THE COMMON COUNCIL of the City of Terre Haute, Vigo County, State of Indiana, that Chapter 10, Article 2 of the City Code of Terre Haute, designated as the "Comprehensive Zoning Ordinance for Terre Haute" and Division 4, Section 10.121 thereof, District Maps, be, and the same is hereby amended to include as follows:

Lots Number Nine (9) and Ten (10), in Blow 2, in Mack & Grimes' Subdivision of Lot 2 of Linton and Madrigal's Subdivision of a part of the West half of Section 23, Township 12 North, Range 9 West, as shown on the plat of Mack & Grime's Subdivision dated August 11, 1868 and recorded August 19, 1868, in Plat Record 1, Page 71.

Commonly known as: 2102 Chestnut Street, Terre Haute, IN 47807.  
Parcel ID: 84-06-23-161-012.000-002.

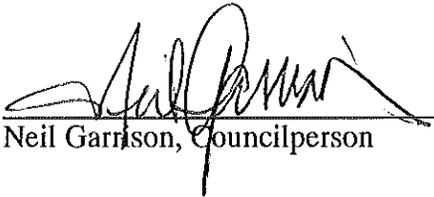
AND

Lot Number Eleven (11), in Block Number 2, in Mack and Grimes Subdivision of Lot No. 2 in Linton and Madrigals Subdivision of a part of the West half of Section 23, Township 12 North, Range 9 West.

Commonly known as: 2118 Chestnut Street, Terre Haute, IN 47807.  
Parcel ID: 84-06-23-161-024.000-002.

be the same are hereby established as a C-6 Strip Business District, together with all rights and privileges that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise."

SECTION II, WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as required by law.

Presented by Council Member,   
Neil Garrison, Councilperson

Passed in open Council this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Curtis DeBaun, President

ATTEST:

\_\_\_\_\_  
Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Duke A. Bennett, Mayor

ATTEST:

\_\_\_\_\_  
Michelle Edwards, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. /s/ Richard J. Shagley  
Richard J. Shagley

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.

**PETITION TO REZONE REAL PROPERTY**

TO: THE PRESIDENT AND MEMBERS OF THE COMMON COUNCIL OF THE CITY OF TERRE HAUTE, INDIANA;

and THE PRESIDENT AND MEMBERS OF THE AREA PLANNING COMMISSION OF VIGO COUNTY, INDIANA.

LADIES and GENTLEMEN:

The undersigned, Tyler Dix, individually and as President of Wabash Motors, Inc., an Indiana Corporation, respectfully submits this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lots Number Nine (9) and Ten (10), in Blow 2, in Mack & Grimes' Subdivision of Lot 2 of Linton and Madrigal's Subdivision of a part of the West half of Section 23, Township 12 North, Range 9 West, as shown on the plat of Mack & Grime's Subdivision dated August 11, 1868 and recorded August 19, 1868, in Plat Record 1, Page 71.

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Commonly known as: 2118 Chestnut Street, Terre Haute, IN 47807.  
Parcel ID: 84-06-23-161-024.000-002.

Your Petitioners are informed and believe that in accordance with Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana," the above-described real estate is now zoned as R-1 Single-Family Residential District.

Your Petitioners intend to use this real estate for an extension of the Wabash Motors automobile sales business. Your Petitioner would request that the real estate described herein shall be zoned as a C-6 Strip Business District.

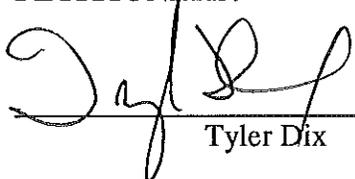
Your Petitioners would allege that the Strip Business District would not alter the general characteristics of this neighborhood since the neighborhood is in a mixed use neighborhood and Wabash Motors is an existing business directly south of the real estate. The zoning classification is consistent with Wabash Motors' current zoning classification, and the mixed use nature of the neighborhood.

Your Petitioners would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

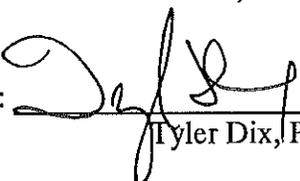
WHEREFORE, your Petitioners respectfully request that the Area Planning Commission and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the District Maps of Chapter 10, of the Terre Haute City Code entitled The Comprehensive Zoning Ordinance for Terre Haute, Section 10-121 District Maps and declaring the above-described real estate to be part of the C-6 Strip Business District of the City of Terre Haute, Indiana, and is entitled to the rights and benefits that may accrue to the real estate and the owner thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, the undersigned Petitioners have caused this Petition to Rezone Real Property to be executed, this 20<sup>th</sup> day of August, 2018.

**PETITIONERS:**

  
Tyler Dix

WABASH MOTORS, INC.

By:   
Tyler Dix, President

WRIGHT, SHAGLEY & LOWERY, P.C.  
500 Ohio Street , PO Box 9849  
Terre Haute, IN 47808  
Phone: (812) 232-3388

BY: /s/ Richard J. Shagley  
Richard J. Shagley #257-84  
Attorneys for Petitioner

The owner and mailing address: 2110 Wabash Avenue, Terre Haute, IN 47807

This instrument prepared by Richard J. Shagley II Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

# SITE PLAN

Special Ordinance No. 12, 2018  
Tyler Dix, individually and as President of Wabash Motors, Inc.  
2102 & 2118 Chestnut Street, Terre Haute, IN 47807

Currently zoned: R-1  
Proposed zoning: C-6  
Proposed use: Automobile sales

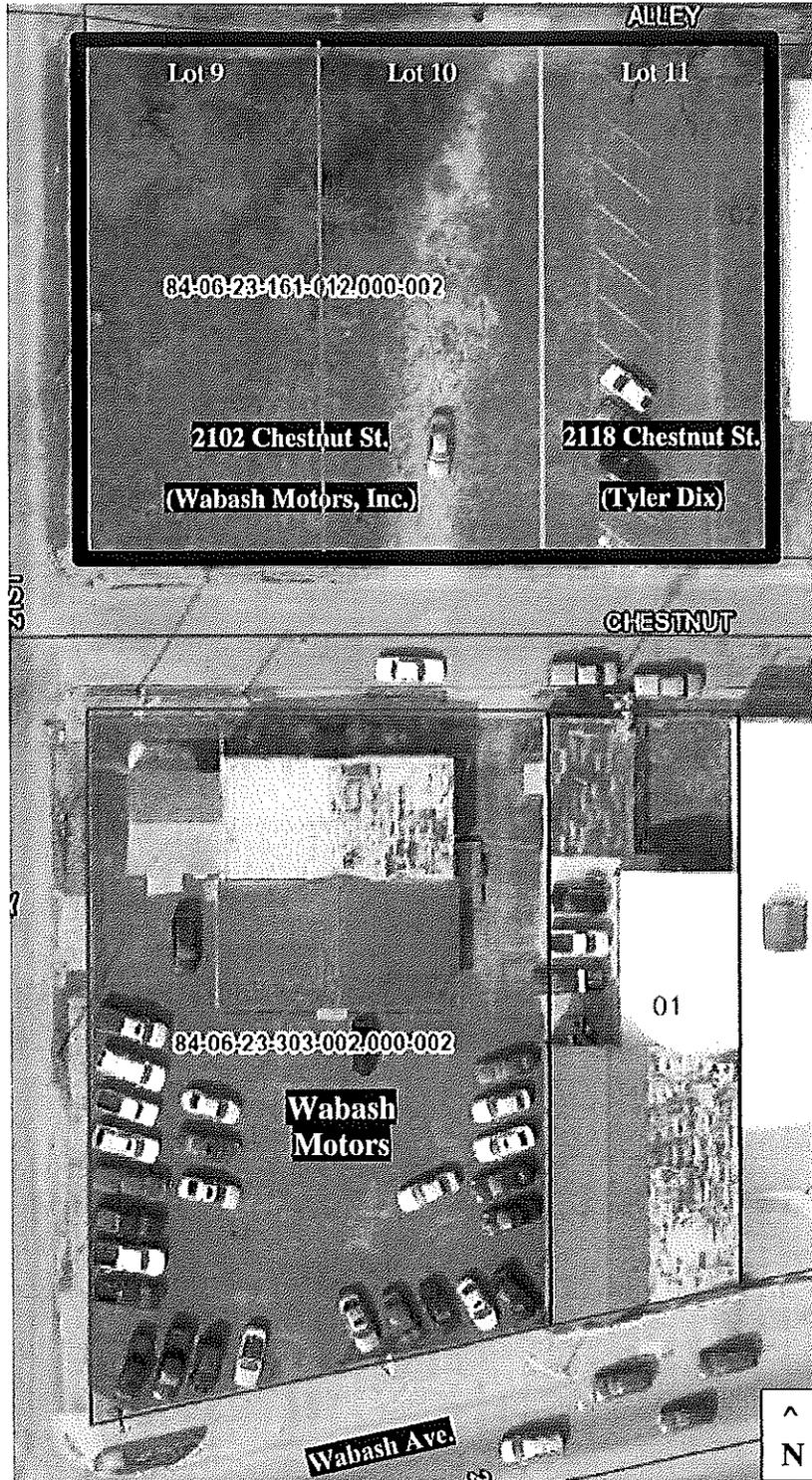


EXHIBIT A

ENTERED FOR TAXATION  
Subject to final acceptance for Transfer

2018008833 WD \$25.00  
08/16/2018 09:44:22A 2 PGS  
Stacee Joy  
VIGO County Recorder IN  
Recorded as Presented

AUG 16 2018

*James W Bramble*  
VIGO COUNTY AUDITOR

WARRANTY DEED

THIS INDENTURE WITNESSETH, THAT Avert J. Bennett, Gregory P. Isaacs and James G. Sedinger, as Trustees, and constituting the Local Board of Trustees, of the Caring Center Church of God (hereinafter referred to as Grantor), for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CONVEY AND WARRANT unto Wabash Motors Inc., a corporation organized and existing under the laws of the State of Luckiana (hereinafter referred to as Grantee), of Vigo County, State of Indiana, the following described real estate located in the County of Vigo, State of Indiana, to-wit:

Lots Number Nine (9) and Ten (10), in Block 2, in Mack & Grimes' Subdivision of Lot 2 of Linton and Madrigal's Subdivision of a part of the West half of Section 23, Township 12 North, Range 9 West, as shown on the plat of Mack & Grime's Subdivision dated August 11, 1868 and recorded August 19, 1868, in Plat Record 1, Page 71.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Subject to taxes prorated to the date hereof.

As a further consideration of payment of the above sum, the persons executing this Deed on behalf of Grantor represent and certify, for the purpose of inducing Grantee to accept this Warranty Deed, that they are the acting Trustees of Grantor and have been fully empowered by the by-laws of Grantor to execute and deliver this Deed, that all necessary actions for the making such conveyance have been taken; and the said Grantor is still in existence.

IN WITNESS WHEREOF Avert J. Bennett, Gregory P. Isaacs and James G. Sedinger, as Trustees, and constituting the Local Board of Trustees, of the Caring Center Church of God have caused this Deed to be executed in its name and on its behalf by its duly authorized Trustees, this 13 day of August, 2018.

Caring Center Church of God

By: *Avert J. Bennett* (SEAL)  
Avert J. Bennett, Trustee

By: *Gregory P. Isaacs* (SEAL)  
Gregory P. Isaacs, Trustee

By: *James G. Sedinger* (SEAL)  
James G. Sedinger, Trustee

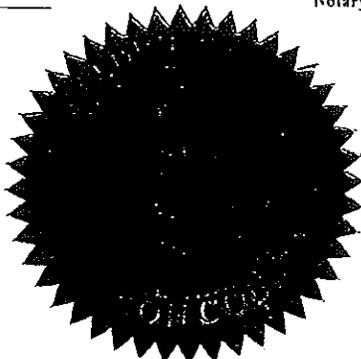
STATE OF Indiana, Jackson COUNTY, SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 13<sup>th</sup> day of August, 2018, personally appeared Avert J. Bennett, as Trustee and member of the Local Board of Trustees, of the Caring Center Church of God, and, being first duly sworn, stated that the representations contained herein are true and acknowledged the execution of the foregoing instrument on behalf of said Association.

WITNESS my hand and Notarial Seal.

My Commission Expires:  
7.7.2025

*Geraldine Ballard*  
Notary Public



My County of residence is: Johnson

Vanessa Beck Pingul  
Typewritten or printed name of notary

STATE OF Indiana, Johnson COUNTY, SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 13<sup>th</sup> day of August, 2018, personally appeared Gregory P. Isaacs, as Trustee and member of the Local Board of Trustees, of the Caring Center Church of God, and, being first duly sworn, stated that the representations contained herein are true and acknowledged the execution of the foregoing instrument on behalf of said Association.

WITNESS my hand and Notarial Seal.  
VANESSA BECK PINGUL  
My Commission Expires: April 7, 2021 Notary Public - Seal  
State of Indiana  
My County of residence is: Johnson My Commission Expires Apr 7, 2021  
Vanessa Beck Pingul  
Typewritten or printed name of notary

STATE OF Indiana, Johnson COUNTY, SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 9<sup>th</sup> day of August, 2018, personally appeared James G. Sedinger, as Trustee and member of the Local Board of Trustees, of the Caring Center Church of God, and, being first duly sworn, stated that the representations contained herein are true and acknowledged the execution of the foregoing instrument on behalf of said Association.

WITNESS my hand and Notarial Seal.  
VANESSA BECK PINGUL  
My Commission Expires: April 7, 2021 Notary Public - Seal  
State of Indiana  
My County of residence is: Johnson My Commission Expires Apr 7, 2021  
Vanessa Beck Pingul  
Typewritten or printed name of notary

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Audrey B. Jones  
Signature  
Audrey B. Jones  
Printed Name

THIS INSTRUMENT WAS PREPARED BY: Donald J. Bonomo, Attorney, Cox, Zwerner, Gambill & Sullivan, LLP, 511 Wabash Avenue, Terre Haute, IN 47807. The deed was prepared at the specific request of the parties or their authorized representatives based solely on information supplied by one or more of the parties to this conveyance concerning the property to be conveyed and without examination of title or abstract. The drafter assumes no liability for any errors, inaccuracy, or omissions in this instrument resulting from the information provided and makes no representation regarding the status or quality of the title hereby conveyed by Grantor's execution and Grantee's acceptance of the instrument.

GRANTEE'S ADDRESS: 2110 Wabash Ave, Terre Haute, IN 47807  
MAIL TAX STATEMENTS TO: 2110 Wabash Ave, Terre Haute, IN 47807

~~DULY ENTERED FOR TAXATION  
Subject to final acceptance for transfer~~

~~NOV 09 2016~~

~~Timothy M. Spurgeon  
VIGO COUNTY AUDITOR~~

EXHIBIT B

2016011563 TT \$18.00  
11/10/2016 08:38:32A 2 PGS  
NANCY S. ALLSUP  
VIGO County Recorder IN  
Recorded as Presented

**TRUSTEES' DEED**

This deed made this 4<sup>th</sup> day of November, 2016, by Dennis E. Wuestefeld and Joan R. Wuestefeld as Trustees under the Dennis E. Wuestefeld and Joan R. Wuestefeld Living Trust dated November 8, 2006;

**WITNESSETH:**

WHEREAS, by deed recorded on March 26, 2012, as Instrument Number 2012004921, in the office of the Recorder of Vigo County, the Dennis E. Wuestefeld and Joan R. Wuestefeld Living Trust dated November 8, 2006, acquired the hereinafter described land.

NOW, THEREFORE, Dennis E. Wuestefeld and Joan R. Wuestefeld, as Trustees under the Dennis E. Wuestefeld and Joan R. Wuestefeld Living Trust dated November 8, 2006, pursuant to authority granted to them under the above-referred to Trust Instrument, CONVEY AND GRANT to Tyler Dix for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, the following described real estate located in the County of Vigo, State of Indiana, to-wit:

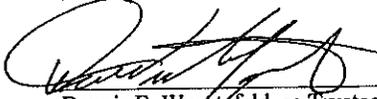
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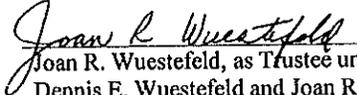
Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Subject to Indiana real property taxes prorated to date hereof.

Grantors-Trustees represent under oath that they are the current duly appointed Trustees of said Trust and that said Trust authorizes the Trustees to hold and convey real estate and this deed is executed pursuant to and in the exercise of the power and authority granted to the Trustees under said Trust Agreement and that the powers referred to in said instrument have never been altered or modified so as to prohibit this conveyance and said Trust is still in existence.

IN WITNESS WHEREOF, Dennis E. Wuestefeld and Joan R. Wuestefeld, as Trustees under said Dennis E. Wuestefeld and Joan R. Wuestefeld Living Trust dated November 8, 2006 have hereunto set their hands and seals this 4<sup>th</sup> day of November, 2016.

  
(SEAL)  
Dennis E. Wuestefeld, as Trustee under the  
Dennis E. Wuestefeld and Joan R.  
Wuestefeld Living Trust dated November  
8, 2006

  
(SEAL)  
Joan R. Wuestefeld, as Trustee under the  
Dennis E. Wuestefeld and Joan R.  
Wuestefeld Living Trust dated November  
8, 2006

DULY ENTERED FOR TAXATION  
Subject to final acceptance for transfer

NOV 10 2016

DULY ENTERED FOR TAXATION  
Subject to final acceptance for transfer

NOV 10 2016

Timothy M. Spurgeon  
VIGO COUNTY AUDITOR

STATE OF IN )  
 ) SS:  
COUNTY OF Vigo )

Before me, a Notary Public in and for said county and state, this 4th day of November, 2016, personally appeared Dennis E. Wuestefeld and Joan R. Wuestefeld, as Trustees of the Dennis E. Wuestefeld and Joan R. Wuestefeld Living Trust dated November 8, 2006, and acknowledged the execution of this conveyance to be their voluntary act and deed and, being duly sworn, acknowledged the truth of the representations contained therein.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.



Greta Sarah Davis  
Notary Public

Greta Sarah Davis  
Printed Name of Notary

My Commission Expires:

4-20-2022

My County of Residence:

Vigo

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Donald J. Bonomo  
Donald J. Bonomo

This instrument prepared by Donald J. Bonomo, Attorney at Law, COX, ZWERNER, GAMBILL & SULLIVAN, LLP, 511 Wabash Avenue, Terre Haute, IN 47807. The deed was prepared at the specific request of the parties or their authorized representatives based solely on information supplied by one or more of the parties to this conveyance concerning the property to be conveyed and without examination of title or abstract. The drafter assumes no liability for any errors, inaccuracy, or omissions in this instrument resulting from the information provided and makes no representation regarding the status or quality of the title hereby conveyed by Grantor's execution and Grantee's acceptance of the instrument.

GRANTEE'S ADDRESS: 223 Highland Ct., Terre Haute, IN 47802

MAIL TAX STATEMENTS TO: 223 Highland Ct., Terre Haute, IN 47802

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF VIGO         )

**AFFIDAVIT**

Comes now, Tyler Dix, individually and as President of Wabash Motors, Inc., an Indiana Corporation, being duly sworn upon his oath, deposes and says:

1. That Wabash Motors, Inc. is the fee simple owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lots Number Nine (9) and Ten (10), in Blow 2, in Mack & Grimes' Subdivision of Lot 2 of Linton and Madrigal's Subdivision of a part of the West half of Section 23, Township 12 North, Range 9 West, as shown on the plat of Mack & Grime's Subdivision dated August 11, 1868 and recorded August 19, 1868, in Plat Record 1, Page 71.

Commonly known as: 2102 Chestnut Street, Terre Haute, IN 47807.  
Parcel ID: 84-06-23-161-012.000-002.

2. That a copy of the Warranty Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Wabash Motors, Inc., is attached hereto and made a part hereof and marked as Exhibit A.

3. That Tyler Dix is the fee simple owner and record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lot Number Eleven (11), in Block Number 2, in Mack and Grimes Subdivision of Lot No. 2 in Linton and Madrigals Subdivision of a part of the West half of Section 23, Township 12 North, Range 9 West.

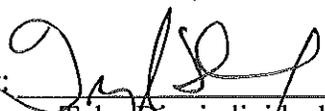
Commonly known as: 2118 Chestnut Street, Terre Haute, IN 47807.  
Parcel ID: 84-06-23-161-024.000-002.

4. That a copy of the Trustees' Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Tyler Dix, is attached hereto and made a part hereof and marked as Exhibit B.

5. That Affiant makes this Affidavit for the sole purpose of affirming that Wabash Motors, Inc. and Tyler Dix are the owners of record of the above-described real estate for which a proposed change to the zoning map of the City of Terre Haute, Indiana, has been filed and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Petition to Rezone Real Property as filed by Tyler Dix and Wabash Motors, Inc.

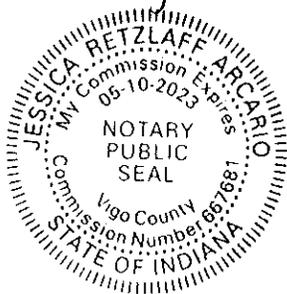
6. Further, Affiants saith not.

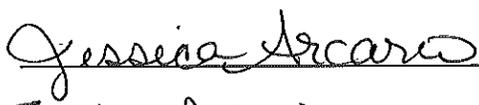
Dated at Terre Haute, Indiana this 20<sup>th</sup> day of August, 2018.

By:   
Tyler Dix, individually and  
as President of Wabash Motors, Inc.

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF VIGO     )

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 20<sup>th</sup> day of August, 2018.



  
Jessica Arcario, Notary Public  
My Commission expires: 5-10-23  
My County of Residence: Vigo

This instrument prepared by Richard J. Shagley, Attorney at Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.

Receipt

The following was paid to the City of Terre Haute, Controller's Office.

Date: 8/21/18

Name: Tyle Dix

Reason: Rezoning - Notice of Filing \$25.00  
Rezoning - Petition \$20.00

TERRE HAUTE, IN  
PAID  
AUG 21 2018  
CONTROLLER

Cash: \_\_\_\_\_

Check: #68759 45.00

Credit: \_\_\_\_\_

Total: 45.00

Received By: L. Ellsberg